IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2756 OF 2005

Mr.Shakil Ahmed Khan ...Petitioner

Versus

The State of Maharashtra & Anr. ...Respondents

.....

Mr.A.K.Singh with Mr.V.K.Singh for Petitioner.

Ms.S.V.Gajare, A.P.P. for Respondents.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 23, 2005.

P.C.

1. Preliminary objection is raised by the learned A.P.P. that the Petitioner intends to challenge order dated 30th March 2005, which is order of confiscation passed in respect of motor tanker No.MH-04-AH-1415. Against such order, statutory remedy of appeal is provided by virtue of Section 6C of the Essential Commodities Act, 1955 and that, the Petitioner has not availed of that remedy before approaching this Court. I find

substance in the above objection taken on behalf of the Respondents.

2. To get over this position, Counsel for the Petitioner would contend that insofar as the above numbered motor tanker is concerned, there is no order of confiscation. This contention is clearly contrary to the contents of the order dated 30th March 2005. The order clearly records that the said vehicle has been confiscated (japt muddemal). The Concise Law Dictionary by Shri Vivek D.Joshi mentions that confiscation means japt. Accordingly, the stand taken on behalf of the Petitioner cannot be accepted.

3. As mentioned earlier, I am in agreement with the preliminary objection taken on behalf of the Respondent State.

4. Accordingly, this Petition is dismissed with liberty to the Petitioner to take recourse to remedy of appeal provided under Section 6C of the

Essential Commodities Act, 1955 which, in turn, will be decided on its own merits in accordance with law.

5. Petition disposed of on the above terms.

A.M.KHANWILKAR, J.